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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/813,449

03/30/2004

Enrique J. Klein

16497.28.1

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7590

08/14/2008

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EXAMINER

DOWE, KATHERINE MARIE

ART UNIT

PAPER NUMBER

3734

MAIL DATE

DELIVERY MODE

08/14/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

1. The following is a complete response to the amendment filed 5/27/2008.
2. Claims 1, 2, 5-14, 16-20, 23, and 24 are currently pending.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 defines a port as being formed by advancing a needle through the tissue wall. A second port is not defined. Thus, it is unclear how the port in claim 5 is "on opposite sides of the aperture" (line 3). It appears two ports are being claimed for two distinct needles of the pair of needles because a single port can only be on a single side of the aperture.
5. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 defines a needle in line 3. Claim 6 recites "at least one needle having a portion of suture attached". It is unclear if the at least one needle in claim 6 is an additional needle or is the same needle positively recited in claim 1.

Claim Rejections - 35 USC § 102

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Heidmueller (US 5,320,632). Heidmueller discloses a method for suturing tissue in the proximity of an aperture in a tissue wall comprising advancing a shaft (10) through the aperture (32) so that a pair of needles (25) is advanced from a distal side (Fig 2) of the tissue wall (33) to form a pair of ports with in the tissue wall on opposite sides of the aperture. At least a portion of suture (30) is passed from the distal side of the tissue wall proximally through the ports in the tissue wall (Figs 2-5; col 4, ln 14-18). A loop is formed with the remaining portion of suture to secure the suture (col 5, ln 3-4). The pair of needles may carry the suture portion therebetween as a continuous length (col 3, ln 65-67).

Response to Arguments

8. Applicant's arguments, see amendment, filed 5/27/2008, with respect to the rejection(s) of claim(s) 1, 2, 5-14, 16-20, 23, and 24 under Hathaway (US 5,304,184) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Heidmueller (US 5,320,632).

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KATHERINE M. DOWE whose telephone number is (571)272-3201. The examiner can normally be reached on M-F 8:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on (571) 272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3734

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kevin T. Truong/
Primary Examiner, Art Unit 3734

Katherine Dowe
August 10, 2008

/K. M. D./
Examiner, Art Unit 3734